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FOR IMMEDIATE RELEASE:

**AVON COMPANY, PHOENIX FABRICATORS AND ERECTORS
SETTLES FOR \$1.75 MILLION**

Susan W. Brooks, United States Attorney for the Southern District of Indiana, announced today a civil settlement with PHOENIX FABRICATORS AND ERECTORS, INC. ("Phoenix") a leading manufacturer and erector of elevated water storage tanks headquartered in Avon, Indiana. The settlement will result in a total payment of \$1,750,000 to the United States of America.

In 2002, a former employee of Phoenix filed a sealed complaint in the United States District Court for the Southern District of Indiana, alleging that the welds Phoenix used to construct water tanks did not comply with contract specifications relating to structural integrity. The employee, also known as the "relator" or "whistle-blower," further asserted that Phoenix conspired with an engineering firm to generate false testing records to show that the tanks it manufactured met the contract specifications. According to the allegations, because Phoenix did

not utilize the proper welds (as specified in the contract specifications), but rather used a less expensive welding technique, the tanks purchased with government funds may not have been as structurally sound as they should have been.

The complaint led to an investigation conducted by the United States Department of Agriculture, Rural Development Association, the United States Department of Housing and Urban Development and the United States Department of Commerce. In light of the investigation, the United States contacted Phoenix to discuss their potential civil liability under the False Claims Act, which was enacted to deter fraud, waste and abuse in federally funded programs.

Under the civil False Claims Act, a person who submits a false claim for payment to the government is liable to the United States for three times the amount of the loss plus a civil penalty of \$5,500 to \$11,000 per false claim.

According to Assistant United States Attorney Erin Reilly Lewis, one of the attorneys who handled the case for the United States, Phoenix agreed to resolve the matter for \$1.75 million dollars. In addition to the cash payment, Phoenix agreed to issue warranty extensions to all of the potentially affected tanks. By this warranty extension, Phoenix agreed to repair any weld which, upon testing and inspection, proves to be defective due to a failure, leak and/or degradation due to an absence of complete joint penetration welds.

Pursuant to the False Claims Act, the relator will receive \$400,000 from the settlement amount in connection with the filing of the initial complaint and this settlement. In agreeing to the terms of the settlement, Phoenix denied all liability under the False Claims Act.

United States Attorney Susan W. Brooks stated: “The False Claims Act was created to serve as a tool for combating fraud, waste and abuse in federally funded programs, through severe financial sanctions. The \$1.75 million dollar payment, along with the warranty extension, sends the message that government contractors must take responsibility for fulfilling their contract requirements. When government contractors falsely report that they have fulfilled their contract and falsely bill the taxpayers for their work, they will pay a substantial penalty.”

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